

ARBITRATION OF SALA CLAIM

Convention and arbitral convention signed at Santo Domingo

April 28, 1902

Entered into force April 28, 1902

*Terminated upon fulfillment of its terms*¹

Treaty Series 435²

CONVENTION

[TRANSLATION]

The Dominican Government, represented by Dr. Henriquez y Carvajal, Minister of Posts and Telegraphs, acting as Minister of Foreign Relations of said Government, party of the first part, and the Government of the United States of America, represented by Mr. W. F. Powell, Chargé d'Affaires of said latter Government before the Government of the Dominican Republic, party of the second part, being earnestly desirous of maintaining in all their splendor the good and cordial relations happily existing between the two Governments and of putting an end to the dispute raised in connection with the claim presented by the Legation of the United States of America on behalf of Madame Sala and other successors of the commercial firm of J. Sala & Co. of New York, for sums which the Dominican Government has acknowledged to owe to said firm as well as for other sums which relate to deals transacted at a former time by said firm with the late General U. Heureaux while the latter held the office of President of the Dominican Republic and which are likewise claimed of the Dominican Government, although the latter has been unable as yet to persuade itself that it really owes them, have agreed as follows:

Firstly. The Dominican Government, keeping within the obligation assumed by it in the contract under date of December 30, 1898, signed by the Auditor General of the Treasury of the Republic and Mr. J. B. Vicini, hereby declares that it will pay to the aforementioned persons the value of the drafts mentioned in said contract, and it discharges the successors of J. Sala & Co. of New York of all manner of responsibility, with respect to the payment of the value of said drafts, toward the said successors of J. B.

¹ On Apr. 30, 1904, the arbitral tribunal awarded \$215,812 to Emilia C. de Sala, surviving partner of the firm of J. Sala and Co.

² Not previously printed.

Vicini or their assigns. The drafts herein referred to amount to a total value of \$189,939.38 (one hundred and eighty-nine thousand nine hundred and thirty-nine dollars and thirty-eight cents gold), of which the said General Heureaux has already paid the sum of \$41,783.33 (forty-one thousand seven hundred and eighty-three dollars and thirty-three cents gold), which reduces the original amount to \$148,156.05 (one hundred and forty-eight thousand one hundred and fifty-six dollars and five cents gold). The Dominican Government therefore undertakes to procure, within the shortest possible period, an agreement signed by the heirs or successors of J. B. Vicini, according to which the successors of J. Sala & Co. shall be actually relieved of all responsibility for the payment of the aforementioned drafts and neither the successors of J. B. Vicini nor their assigns shall be able to begin or prosecute any judicial action against them in this regard. The Dominican Government also declares (them) relieved of all responsibility for the payment of a certain number of drafts issued by General U. Heureaux against the firm of J. Sala & Co. in the months of May, June, and July, 1898, and which, as shown in the statement appended to this Convention, amount to a total of \$39,783.33 (thirty-nine thousand seven hundred and eighty-three dollars and thirty-three cents American gold). As regards draft No. 2461 in favor of Mr. P. A. Lluberes for the sum of \$2,200 (two thousand two hundred dollars gold), not included in the contract of the Auditor General of the Treasury but also in possession of the successors of J. B. Vicini, the Government promises to make friendly overtures to said gentlemen in order to have it included in the settlement of the other drafts.

Secondly. As the American Government, in order to prevent the impending commercial ruin and very grave injuries threatening the successors of J. Sala & Co. by reason of the delay in the payment of the aforesaid drafts by the Dominican Government, demands of the latter an immediate payment on the general account of the successors of J. Sala & Co., the Dominican Government, yielding to the pressure of the American Government, agrees to pay to the latter the sum of fifty thousand dollars as follows: Twenty-five thousand dollars to be paid within fifteen days following the signature of the present Convention, and the remaining twenty-five thousand dollars to be paid, within the period of ninety days from the date of receipt of the first twenty-five thousand dollars, in two equal installments of which the first shall be paid at the end of the first forty-five days and the second at the end of the ninety-day period.

Thirdly. The two Governments agree that the balance found on March 31 last, amounting to one hundred and seventy-eight thousand seven hundred and six dollars and eighteen cents (\$178,706.18) after deducting the foregoing sum of fifty thousand dollars from the total recognized by the Dominican Government as due the successors of J. Sala & Co. and inscribed since

April 1900 in the Internal Floating Debt, on which total two cash payments were made during said year of 1900, shall be paid by the Dominican Government, in regular semiannual installments, within the period of twenty-five years, allowing interest at 3 per cent per annum. The American Government agrees to accept this form of payment and this moderate annual interest in consideration of the present critical financial situation of the Dominican Government and because it is desirous of thus aiding said Government in its efforts to relieve this situation while seeking to satisfy all creditors in an equitable manner. The Dominican Government, on its part, being desirous that the greatest advantages granted to other creditors of equal rank be granted to the successors of J. Sala & Co., agrees that, as long as the semiannual pro rata distributions of the amounts allotted or to be allotted in future to the payment of the Internal Floating Debt exceed the quota due each time to the successors of J. Sala & Co. in accordance with the above-stipulated payment and by reason of the balance and the twenty-five year period, it will apply such semiannual payments on the said Internal Floating Debt to the payment of principal and interest on the balance due the successors of J. Sala & Co.

Fourthly. As regards the payment of the sum of two hundred and fifteen thousand eight hundred and twelve dollars claimed by the American Government from the Dominican Government on account of supplies furnished to General U. Heureaux by Messrs. J. Sala & Co., since it is impossible for the latter Government to admit by any means that it owes this sum, for the reason that it paid it in due time to the said General U. Heureaux, the two Governments agree that this point shall be referred to arbitration. Both Governments therefore agree that the manner in which such arbitration is to take place shall be definitely arranged as soon as possible after the signature of the present Convention, it being understood that in case the award is against the Dominican Government the same rule shall be applied, to the payment of principal and interest of the sum which the latter Government may be sentenced to pay, as has been agreed upon in this Convention with regard to the balance already recognized as due the successors of J. Sala & Co. from the Dominican Government.

Done in duplicate, in the city of Santo Domingo, capital of the Dominican Republic, signed by the undersigned, and sealed with the official seal of each party on April 28, 1902.

DR. HENRIQUEZ Y CARVAJAL	[SEAL]
W. F. POWELL	[SEAL]
<i>Chargé d'Affaires</i>	

ANNEX

Drafts which the Dominican Government relieves the firm of J. Sala & Co. of the responsibility of paying, the fact being attested by the seal of this Department,

<i>1898</i>			
June 7	2380 Frame Alston & Co:	August 6	\$10,000
	2381 H. R. A Grieser	" "	5,000
	2382 id. id.	" "	5,000
	2437 J. Parra Alba	Sept. 9	3,000
	2491 Successors of C. Battle	" "	5,000
Which we are informed have been paid			
Total			\$28,000
<i>1898</i>			
May 31	2345 W. R. Thormann	July 30	5,000
June 7	2346 id. id.	August 6	250
" "	2362 C. J. den Tex. Bondt	" "	6,000
" 16	2269 Viñamata i Huttlinger	" 15	533. 33
Grand total			\$39, 783. 33
			[SEAL]

ARBITRAL CONVENTION

[TRANSLATION]

The Dominican Government and the Legation of the United States of America accredited to it being unable to come to an understanding with regard to the responsibility for the payment of the sum of two hundred and fifteen thousand eight hundred and twelve dollars American gold (\$215,812) which said Legation claims from the Dominican Government in favor of the heirs of J. Sala & Co. of New York for supplies of merchandise and other goods furnished at a former time by the commercial firm of J. Sala & Co. to General U. Heureaux, then President of the Dominican Republic, and the payment of which the Dominican Government positively refuses to make because it already paid the sum to the aforesaid General Heureaux, who acted as an intermediary between said Dominican Government and the aforementioned J. Sala & Co., it has been agreed upon between the parties to settle the matter before a tribunal of arbitration on the following conditions:

First. In order to constitute the said tribunal of arbitration, the Dominican Government shall appoint an arbitrator for the purpose and the heirs of J. Sala & Co. shall appoint another.

Second. It shall be the exclusive purpose of this tribunal to examine and decide whether the Dominican Government is or not indebted to the heirs of J. Sala & Co. and whether the latter are or not the rightful creditors of the Dominican Government for the whole or part of the sum of \$215,812 American gold represented by bills for supplies furnished at a former time to General U. Heureaux, former President of the Republic.

Third. Thirty days after the signature of the present agreement each of the interested parties shall notify the other of the appointment of its arbitrator.

Fourth. Sixty days afterwards at the latest, or before if voluntarily so agreed, the arbitrators shall meet at New York City and proceed to examine and decide the question.

Fifth. The interested parties agree to immediately place in the hands of the arbitrators all the documents which they may deem suitable in the case, as well as to furnish all documents to the arbitrators which the latter may require in relation to the said question. The parties shall also be obliged to transmit to each other, through their attorneys, agents, or arbitrators, all documents which may be in the possession of either of them and which it may be suitable for the other to know, as well as the defenses, replications, and counter-replications which may be presented in the trial. Such transmission shall take place in accordance with the general or special rules which the arbitrators may prescribe.

Sixth. In case the arbitrators are unable to agree either on all or on one or more points of the question, they shall, after three formal disagreements on the same point, agree on the appointment of an umpire to decide the matter finally. In case they are unable to agree on the umpire within a period not exceeding fifteen days, this circumstance shall be made known by the arbitrators to the Dominican Government. The latter shall then request the Chief Justice of the Supreme Court of the United States to accept the office of umpire, or in case it is impossible for him to discharge the office, to appoint an umpire.

Seventh. The umpire shall decide, if possible, within sixty days, hearing both parties in all their means of defense.

Eighth. The expenses of the arbitration shall be borne equally by both parties, the attorneys' fees being paid by each party independently.

Ninth. The award in this arbitration case shall be final and unappealable either before any court of any country or before an international tribunal.

Tenth. The award shall be communicated in writing, accompanied by a copy of all the documents supporting it, simultaneously to the Dominican and United States Governments.

Done in duplicate, in the city of Santo Domingo, capital of the Dominican Republic, signed by the undersigned, and sealed with the official seal of each party, on the 28th day of April, 1902.

Dr. HENRIQUEZ Y CARVAJAL	[SEAL]
W. F. POWELL,	[SEAL]
<i>Chargé d'Affaires</i>	